IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O.O.C.J.

NOTICE OF MOTION NO. 3051 OF 2003

IN

SUIT NO. 1440 OF 1993

Kamal J. Chandwany ...Plaintiffs.
vs.
Daya Builders and Ors. ...Defendants.

NOTICE OF MOTION NO. 3090 OF 2003

IN

SUIT NO. 1440 OF 1993

Jamat P. Chandwany ...Plaintiffs.
vs.
Daya Builders and Ors. ...Defendants.

NOTICE OF MOTION NO. 3091 OF 2003

IN

SUIT NO. 1922 OF 1993

Pinky Hotchandany ...Plaintiffs.
vs.
Daya Builders and Ors. ...Defendants.

NOTICE OF MOTION NO. 3351 OF 2003
IN
SUIT NO. 2076 OF 2003

Narayan Hochandany ...Plaintiffs.
vs.
Daya Builders and Ors. ...Defendants.

NOTICE OF MOTION NO. 3372 OF 2003
IN
SUIT NO. 3067 OF 1993

Mrs. Heera Chandwani ...Plaintiffs.
vs.
Daya Builders and Ors. ...Defendants.

Ms. Ratna Bhargavan for the plaintiffs.

Ms. Anita Castilino with Ms. Deepa Kamath
i/by. Mayur Narendra & Co.
for the defendants.

D.R. Dhurat, 1st Asstt to
Court Receiver present.

CORAM: S.U. KAMDAR, J.

DATE : 22ND FEBRUARY, 2006.

P.C. :

1. In so far as Notice of Motion no. 3372 of 2003 is concerned, the present Notice of Motion is taken out for direction that the Court Receiver should take back the possession from the plaintiff. The ground is that the plaintiff is an investor and not personally using the premises. It is also submitted that there is arrears of royalty charges as well as maintenance charges. I am not inclined to grant the relief as sought by the plaintiff. I am of the view that once and order having been passed appointing the plaintiff as agent of the court Receiver it is not permissible to direct the Court Receiver to take back the possession and hand it over to the defendant who is the builder and dispossess the flat purchasers from the possession thereof. of the premises and has sold the flat to the plaintiff herein.

2. In so far as the arrears of royalty amount is concerned the Court Receiver is present in court. He states that in Notice of Motion no.

3051 of 2003 the amount of royalty which is in arrears is Rs.1500/-. The plaintiff undertakes to this court that within a period of two weeks from today the said amount of Rs.1500/- will be paid. In so far as the maintenance charges are concerned the plaintiff is directed to pay the actual amount payable to the defendants towards the maintenance charges without adding any interest component. The amount which is due will be computed on the basis of payment charged to other flat purchasers towards the maintenance and property tax and electricity charges. However no interest will be claimed at this stage. The said amount will be paid within two weeks from the date of communication of figures by the defendants to the plaintiff The issue of interest will be considered only at the hearing of the suit. In an event if the plaintiff does not comply with the terms and conditions as mentioned in the present order the Court Receiver is directed to move the court for necessary directions from this court for taking back possession of the said premises from the

plaintiff.

3. In so far as Notice of Motion no. 3090 of 2003 is concerned the outstanding amount of royalty charges is Rs.900/-. The plaintiff is directead to pay the said amount as aforesaid. Inrespect of the said flat also all the directions given hereinabove will apply.

5. In so far as Notice of Motion no. 3051 of 2003, Notice of Motion No. 3091 of 2003 and Notice of Motion no. 3351 of 2003 are concerned the plaintiff was appointed as agent without security and royalty charges, thus there is no arrears of royalty amount. However, all other directions given inrespect of maintenance charge shall apply to the plaintiffs in these three notices of Motions.

6. All the five motions are disposed off

accordingly.

sd/-

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